

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION**

GULF RESTORATION NETWORK

PLAINTIFF

VS.

NO. 2:12CV00036-KS-JCG

CITY OF HATTIESBURG

DEFENDANT

VS.

**MISSISSIPPI COMMISSION ON
ENVIRONMENTAL QUALITY**

INTERVENOR

STIPULATED ORDER TERMINATING AMENDED CONSENT JUDGMENT

THIS MATTER came before the Court on the joint motion of all parties for the entry of a conditional order terminating the Amended Consent Judgment on the terms contained within a negotiated settlement agreement resolving all pending disputes among the parties (“Settlement Agreement”), and the Court finding that the motion is well-taken and that it should be granted, states as follows:

WHEREAS, the Amended Consent Judgment was entered in this case on October 1, 2014; and

WHEREAS, on December 19, 2016, the City of Hattiesburg filed a motion to terminate or modify the Amended Consent Judgment; and

WHEREAS, the parties subsequently engaged in discovery and settlement discussions regarding the City’s motion; and

WHEREAS, upon joint notice to the Court that the parties had reached a settlement in principle, the Court removed from the docket the scheduled hearing on the City’s motion; and

WHEREAS, on August 4, 2017, the City Council of the City of Hattiesburg, by a resolution adopted on a 5-0 vote, approved the terms of the Settlement Agreement; and

WHEREAS, on August 4, 2017, pursuant to the authority of the Resolution of the City Council approving the settlement, the Settlement Agreement was signed by the Mayor of Hattiesburg, Toby Barker; and

WHEREAS, on August 7, 2017, the Settlement Agreement became final by the signature affixed thereon of Chris Wells, on behalf of the Mississippi Commission on Environmental Quality, pursuant to the authority delegated to him by the Executive Director of the Mississippi Department of Environmental Quality (“MDEQ”); and

WHEREAS, and as required by the Settlement Agreement, a copy of the signed Settlement Agreement was transmitted on August 11, 2017, via email to the Department of Justice for review; and

WHEREAS, the Settlement Agreement provides that the City, within 90 days from the entry of this conditional Stipulated Order Terminating the Amended Consent Judgment, will submit to the MDEQ a request to revise the NPDES permit for the South Lagoon to incorporate the effluent limits, monitoring provisions, and maintenance schedule as agreed to in the Settlement Agreement; and

WHEREAS, the Settlement Agreement provides that the settlement is also conditioned upon the City negotiating a new Agreed Order addressing stipulated penalties with the Mississippi Commission on Environmental Quality (“Agreed Order”); and

WHEREAS, the Settlement Agreement further requires the entry of a conditional Stipulated Order Terminating the Amended Consent Judgment which would automatically terminate the Amended Consent Judgment upon the modification and issuance of both the revised NPDES permit and the Agreed Order; and

WHEREAS, the Settlement Agreement provides that the Consent Judgment shall not terminate until 45 days after the Settlement Agreement is provided to the Department of Justice (“DOJ”) to permit the DOJ to offer comments should it desire to do so, or until the DOJ issues comments on the Settlement Agreement, whichever is earlier; and

WHEREAS, a true and complete copy of the Settlement Agreement is attached to this Order as Exhibit A; and

WHEREAS, the parties have jointly requested the Court to enter this order, and the Court has found the request to be well-taken, and that it should be granted.

IT IS HEREBY ORDERED that the Amended Consent Judgment shall automatically terminate upon modification and issuance of the revised NPDES permit, and the issuance of the Agreed Order, as required by the terms of the Settlement Agreement, provided said date is more than 45 days from the date the Settlement Agreement was provided to the DOJ for comment. Subsequently, the parties shall jointly request this Court to enter a final order releasing the matter from its continuing jurisdiction. Alternatively, should the Mississippi Environmental Quality Permit Board decline to modify the NPDES permit and MDEQ decline to issue the Agreed Order as required by the Settlement Agreement, the parties shall request the Court to reschedule the hearing on the City's Motion to Terminate the Amended Consent Judgment.

SO ORDERED this the 23rd day of August, 2017.

s/Keith Starrett
UNITED STATES DISTRICT JUDGE

AGREED:

s/ Cynthia Sarthou
Attorney for Gulf Restoration Network

s/ Louis B. Lanoux
Watkins & Eager PLLC
Attorneys for the City of Hattiesburg

Donna Hodges
Attorney for the Mississippi Commission on Environmental Quality

FILED BY:

s/ Lisa Jordan
Counsel for Gulf Restoration Network